

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation
Case No. CV96-4849

Certified Award

to Claimants [REDACTED 1]

and Gerard [REDACTED 2]

in re Account of Amalie Schimmel and Max Schimmel

Claim Numbers: 400210/RT; 400215/RT; 401841/RT; 401847/RT

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”), and the claims of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of A. Schimmel-Reiber (“Account Owner Schimmel-Reiber”) and Max Schimmel (“Account Owner Max Schimmel”) (together the “Account Owners”) at the Basel branch of the [REDACTED] (the “Bank”).¹

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

The Claimants, who are siblings, submitted substantially similar Claim Forms identifying the Account Owners as their parents, Amalie Schimmel, née Reiber, who was born on 2 September 1890 in Tarnow, Poland, and Max Mailech (Meilech) Schimmel, who was born on 4 February 1890 in Dubiecko, Poland. The Claimants stated that their parents, who were Jewish, were married in December 1916 in Berlin, Germany, where their father was a wholesale merchant in butter and eggs. The Claimants also indicated that they lived at Pariser Strasse 2 in Berlin between 1920 and 1930, and Brummer Strasse 26, also in Berlin, until 1933. The Claimants further stated that their parents fled Germany for Paris, France, in 1933, leaving all their possessions behind, and subsequently fled France for the United States in 1940. The Claimants indicated that their father died on 6 February 1968 in Monte Carlo, Monaco, and that their mother died in Long Beach, United States, on 25 January 1981.

¹ The CRT notes that on the List of Account Owners Published in 2005 (the “2005 List”), Max Schimmel was listed as an account owner and A. Schimmel-Reiber as a power of attorney holder. Upon careful review, the CRT has determined that this account was a joint account held by both Max Schimmel and A. Schimmel-Reiber.

In support of her claims, Claimant [REDACTED 1] submitted a copy of her birth certificate indicating that she was born on 16 February 1922 in Berlin-Charlottenburg and that her parents were Amalie Schimmel,² née Reiber, and Meilech Schimmel. She also submitted a copy of a French passport for foreigners and a French identity card, issued on 28 August 1938, indicating that she was a student living in Paris. Additionally, Claimant [REDACTED 1] submitted a copy of an excerpt from a passenger list of the ocean liner *Rex* for a passage from Naples, Italy, to New York, United States, on November 1939, which contains the names Mrs. Amalie Schimmel Reiber and [REDACTED].

Claimant [REDACTED 2] also submitted a copy of his birth certificate indicating that he was born on 6 November 1925 in Berlin-Wilmersdorf (now Berlin-Charlottenburg) and that his parents were Amalie Schimmel, née Reiber, and [REDACTED]. The Claimants submitted copies of their parents' wills, indicating that [REDACTED 1] and [REDACTED 2] are the children of Max M. Schimmel and Amalie Schimmel, and indicating that Max Schimmel left his entire estate to his wife, Amalie Schimmel, who in turn bequeathed her estate to their children in equal shares.

Claimant [REDACTED 1] indicated that she was born on 16 February 1922 in Berlin. Claimant [REDACTED 2] indicated that he was born on 6 November 1925 in Berlin.

Information Available in the Bank's Records

The Bank's records consist of a contract for the opening of a custody account and a printout from the Bank's database. According to these records, the Account Owners were *Herr* (Mr.) Max Schimmel and *Frau* (Mrs.) Amalie Schimmel, née Reiber. The Bank's records indicate that Max Schimmel resided at 2 Pariserstrasse, Berlin-Wilmersdorf, Germany. The Bank's records further indicate that the Account Owners held one joint custody account, numbered 33401, which was opened on 2 April 1929.

The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the

² The CRT notes that the former Berlin-Wilmersdorf is now administered together with Berlin Charlottenburg.

CRT's discretion. In this case, the CRT determines it appropriate to join the four claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. The Claimants' father's name matches the published name of Account Owner Max Schimmel and the Claimants' mother's first initial, surname, and maiden name match the published first initial and surname of Account Owner Schimmel-Reiber. The Claimant identified Account Owner Schimmel-Reiber's first name and Account Owner Max Schimmel's street address, which matches unpublished information about the Account Owners contained in the Bank's records.

In support of their claims, the Claimants submitted their birth certificates and the last wills of their parents, providing independent verification that the persons claimed to be the Account Owners had the same names and resided in the same town recorded in the Bank's records as the names and city of residence of the Account Owners. The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish, and that they fled Nazi Germany for France in 1933, and subsequently fled France for the United States in 1940.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimants' parents. These documents include the birth certificates of the Claimants, which indicate that their parents were Amalie Schimmel, née Reiber, and Mailach (Meilech) Reiber, and the last wills of their parents, indicating that [REDACTED 1] and [REDACTED 2] are the children of Max M. Schimmel and Amalie Schimmel. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owners fled Nazi Germany for France in 1933, leaving all their possessions behind, and that they subsequently fled France for the United States; that there is no record of the payment of the Account Owners' account to them nor any record of a date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about their account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their heirs.

Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owners were their parents and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owners held one custody account, numbered 33401. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”). The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 162,500.00.

Division of the Award

According to Article 23(2)(a) of the Rules, if a Claimant has submitted the Account Owner’s will or other inheritance documents pertaining to the Account Owner, the Award will provide for distribution among any beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, the Claimants submitted Account Owner Max Schimmel’s will, leaving his entire estate to his wife, Account Owner Schimmel-Reiber, and Account Owner Schimmel-Reiber’s will, leaving her estate to her children in equal shares. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
27 February 2007